

## **REMARKS/ARGUMENTS**

### **A. In the Specification**

1. No paragraphs have been amended in the specification to clarify previously disclosed matter and/or correct language, reference labeling, figure description, and/or syntax. No new matter has been added.

### **B. In the Claims**

1. Claims 21-36 and 38 are pending in this application. As reflected in the Complete Listing of All Claims above, Claims 21 and 38 have been amended to correct language, syntax, avoid the citation of the prior art, and/or point out the specific features of Applicant's invention with greater clarity. Claims 1-20 and 37 have been previously cancelled. Claims 22 – 36 are cancelled herein. No new claims have been added. No new matter has been added.

### ***Regarding the Claim Rejections under 35 U.S.C. 112***

2. Applicant acknowledges the quotation of the appropriate paragraph of 35 U.S.C. 112 that forms the basis for the rejections under this section made in the office action.

3. Claims 21-36 and 38 have been rejected under the second paragraph of 35 U.S.C. 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, with respect to claim 21, steps as to how the aqueous suspension is treated with carbon dioxide and kept from being released while processed into tablet form, is not enabled by the disclosure.

Furthermore, claim 21 has been rejected as containing the limitation that the supplement is a powder which comes after the process limitations of making the suspension into a tablet form.

Applicant agrees. As a result, Applicant has amended claim 21 to correct the order and sequence of the step to be more clear and definite. No new matter was added.

Additionally, claim 21 has been amended to reflect that the process of treating a suspension with carbon dioxide is well known in the industry, and need not be included in the specification as support for the process step. That would be like claiming the process of making a device constructed of steel, and requiring the Applicant to describe the process of making the very steel that forms the device. Treating suspensions with carbon dioxide and then processing into tablet form without having the carbon dioxide evaporate while the suspension is processed into tablet form is well known in the art, and these techniques are conventional and have been well known for quite some time. An example is Alka Seltzer, a well known medicinal tablet that when processed retains the carbon dioxide and releases it only when the tablet is dropped into water. Alka Seltzer and the like have been around for in excess of 50 years, and the process of making a tablet which will release carbon dioxide when added to water, or some other aqueous solution, is very well known and conventional means for accomplishing same are readily available.

Applicant has amended the claim to state the obvious, namely, that conventional known processes are used to process the suspension into carbon dioxide releasing tablets. This process step is supported in the specification in paragraphs [0025] and [0032].

Therefore, Applicant now believes that claim 21, as amended herein, is in condition for allowance, and respectfully requests such action by the Examiner.

***Regarding the Claim Rejections under 35 U.S.C. 103***

4. Applicant acknowledges the quotation of the appropriate paragraph of 35 U.S.C. 103 that forms the basis for the rejections under this section made in the office action.

5. Claims 21-35, 36 and 38 were rejected under 35 U.S.C. 103(a) as being unpatentable over Miyamoto (JP 59022583) in view of De Ment (2,637,536) and Santhanam (4,546,612). Applicant respectfully disagrees with this obviousness rejection based upon the Miyamoto patent alone, or in light of the De Ment and Santhanam references. Claims 22-35, 36 and 37 were

cancelled, thus, the only claims at issue in the present application are 21 and 38.

**Miyamoto Taken Alone.** As per claim 21, amended claim 21 discloses a method for preparing a consumable nutritional mineral supplement composition by providing plant material, burning the plant material down to ash form, reacting the ash form with organic acids, isolating the reacted form, and then processing the isolated reacted form to make a consumable nutritional mineral supplement composition, containing carbon dioxide. Miyamoto discloses a process of making a nutritional composition by burning tree material to make ash and then treating the ash with acetic acid to make a stock solution which is then evaporated. However, Miyamoto does not disclose the amended steps, as disclosed in Applicant's invention, of isolating the reacted form of the plant ash and processing the isolated reacted form of the plant ash for the purpose of making a consumable nutritional mineral supplement composition containing carbon dioxide. Also, the Applicant's claimed method produces a different composition than the composition produced by Miyamoto's claimed method. Thus, Applicant's method is not obvious in light of Miyamoto's method because there is no teaching or suggestion in Miyamoto to isolate and process the reacted form of plant ash to make a consumable nutritional mineral supplement composition containing carbon dioxide.

Therefore, because Miyamoto neither teaches nor suggests a method for preparing a consumable nutritional mineral supplement composition that includes the steps of isolating and processing of the reacted form of plant ash to make a consumable nutritional mineral supplement composition containing carbon dioxide, and there are no facts or evidence disclosed in Miyamoto to suggest that the minerals in Miyamoto's composition are absorbed by the fruits or vegetables or consumable apart from coming into contact with the fruits or vegetables, it would not have been obvious to one with ordinary skill in the art to provide a method as claimed by Applicant. Thus, Applicant believes that claim 21, as amended, is now in condition for allowance.

**In View of De Ment.** Neither De Ment nor Santhanam are applicable in this case, and neither should have been cited against the present application. De Ment involves a method for dispersing materials in water, and more particularly, it teaches and discloses an "improvement in

the art of toxic warfare, as for example involving radioactive toxic matter, herbicides and defoliating agents and the like, wherein bodies of water are the targets and wherein it is desired to effectively contaminate same.” (Col. 1, lines 12-17). Applicant fails to see how this reference is relevant. Applicant is attempting to patent a nutritional supplement made from selectively choosing plants rich in certain minerals, then oxidizing them, then processing then to be palatable and consumable, for human and animal consumption. De Ment is improving upon a technique for destroying bodies of water, such as reservoirs, and making them useless, as an act of war, or more modernly, an act of terrorism. The two are polar opposites.

De Ment uses the solid form of carbon dioxide, “dry ice,” as the gasogenic substance for dispersing toxic materials in large bodies of water. Applicant is processing a nutritional compound (plant ash) into a tablet form that releases carbon dioxide, to create a pleasing beverage for consumption. Applicant has amended claim 21 to reflect that the process of treating a plant ash suspension with carbon dioxide, then forming tablets which will release that carbon dioxide when added to water, is a conventional process, a well know process, and one that has been in use for over 50 years. Again, Applicant fails to see how this reference is relevant.

**In View of Santhanam.** Neither De Ment nor Santhanam are applicable in this case, and neither should have been cited against the present application. Santhanam involves a method for producing free flowing solids, in particular liquid carbon dioxide is used to treat a fine particulate material (here that material is coal dust) to form a pumpable slurry, then separating the liquid carbon dioxide from the slurry and using gaseous carbon dioxide (or air) to transport the resulting enhanced free-flowing and non-agglomerating coal dust (see claim 13, the only claim remaining in the reexamination certificate). Applicant fails to see how this reference is relevant. Applicant is attempting to patent a nutritional supplement made from selectively choosing plants rich in certain minerals, then oxidizing them, then processing then to be palatable and consumable, for human and animal consumption. Santhanam is improving upon a method for moving fine coal dust into and out of storage units on an industrial scale.

Santhanam uses the liquid form of carbon dioxide, as a means for treating a substance to

be transported, then uses the gaseous form of carbon dioxide to transport the treated substance from a mine or railroad box car to numerous storage elevators. Applicant is processing a nutritional compound (plant ash) into a tablet form that releases carbon dioxide, to create a pleasing beverage for consumption. Applicant has amended claim 21 to reflect that the process of treating a plant ash suspension with carbon dioxide, then forming tablets which will release that carbon dioxide when added to water, is a conventional process, a well know process, and one that has been in use for over 50 years. Again, Applicant fails to see how this reference is relevant.

**In View of De Ment and Santhanam.** Neither De Ment nor Santhanam are relevant art. When either is taken alone, or in combination with Miyamoto, the present invention is not rendered obvious. It is not possible to even combine Miyamoto with either De Ment or Santhanam. Moreover, it is not possible to combine the teachings of De Ment with those of Santhanam. Even if combination was possible, the three references taken together do not make the invention of Applicant, as expressed in amended claims 21 and 38 obvious to someone skilled in the art of preparing nutritional supplements for human and animal consumption.

The De Ment and Santhanam references are not within the classification of Applicant's invention. Because these references pertain to large scale industrial methods for dispersing or moving toxic materials and coal, there would be no cross-over in research undertaken by Applicant. That is to say, that Applicant would not have know of these industrial applications for solid, liquid and gaseous carbon dioxide, and would not have reviewed the references in performing research on how to better prepare nutritional supplements from plant ash. There is no correlation between these fields of endeavor.

Given the present amendment, Applicant believes that claims 21 and 38 are now in condition for immediate allowance. Such action by the Examiner is hereby respectfully requested.

### CONCLUSION

All of the objections and rejections raised by the Examiner have been addressed by Applicant. Attorney for Applicant has carefully reviewed the cited reference, namely the Miyamoto, De Ment and Santhanam patents, and believes that the new claims presently on file in the subject application are patentably distinguishable with respect to the prior art. In view of the amendments to the claims and the remarks submitted herein, Applicant submits that all of the new claims of record are in condition for allowance and respectfully requests that a Notice of Allowance be issued in this case in due course.

If it is felt for any reason that direct communication with Applicant's attorney would serve to advance prosecution of this application to allowance, the Examiner is invited to contact the undersigned, attorney of record in this case, Richard D. Clarke, Esq., at one of the listed below numbers or at his below listed e-mail address.

Dated: October 15, 2007

Respectfully Submitted,

LAW OFFICE OF RICHARD D. CLARKE

By 

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